

**UTILITY RELOCATION AGREEMENT WITH MIDDLE TENNESSEE ELECTRIC MEMBERSHIP CORPORATION
FOR THE FRANKLIN ROAD CORRIDOR IMPROVEMENTS (STREETSCAPE) PROJECT,
HARPETH RIVER BRIDGE TO HARPETH INDUSTRIAL COURT/HOOPER LANE
COF Contract No. 2019-0272**

THIS AGREEMENT is by and between the **City of Franklin, Tennessee** ("City") and **Middle Tennessee Electric Membership Corporation** ("MTEMC").

WITNESSETH:

WHEREAS, the City intends to construct the Franklin Road Corridor Improvements (Streetscape) Project, Harpeth River Bridge to Harpeth Industrial Court/Hooper Lane, in Franklin, Tennessee (the "Project"), as shown on construction plans and specifications as part of COF Contract No. 2019-0230, prepared by the City, with help from MTEMC; and

WHEREAS, MTEMC owns and maintains overhead utility lines and related facilities (the "Electric Facilities") on and under private and public utility easements along Franklin Road; and

WHEREAS, the Electric Facilities must be relocated and installed underground per the City's requirements to accommodate the Project; and

WHEREAS, pursuant to the Project, a portion of the Electric Facilities are located on public highway right-of-way and a portion of the Electrical Facilities are located on private utility right-of-way of MTEMC; and

WHEREAS, relocating the Electrical Facilities underground will incur a greater expense than an overhead relocation; and

WHEREAS, except for as specified herein, the relocation of Electric Facilities will be designed and constructed by MTEMC or MTEMC's contractor; and

WHEREAS, the City will approve final design plans to ensure the Electric Facilities are relocated in a manner that accommodates the Project.

NOW THEREFORE, in consideration of these premises and the mutual promises contained herein, it is agreed by and between the parties as follows:

1. The foregoing recitals are incorporated by reference as if fully stated herein.
2. The City is responsible for all underground ditch work and installation of conduit pursuant to the specifications as described in the MTEMC Electrical Service Guidelines, which may be found at <https://www.mtemc.com/sites/mtemc/files/PDF/Engineering/Electrical%20Service%20Guidelines%20-%20Dec%202018.pdf>, and Underground Installation Guide, which may be found at <https://www.mtemc.com/sites/mtemc/files/PDF/Engineering/ UIG.pdf>. The City acknowledges and agrees that MTEMC will not begin construction until MTEMC approves the ditch work and conduit installation according to its specifications.
3. The City will be solely responsible for acquiring all MTEMC easements pursuant to MTEMC's standards outside of the available public rights-of-way as may be needed for construction of the

Electric Facilities (the "Easement Acquisitions"). The City will be responsible for 100% of the costs related to the Easement Acquisitions, including but not limited to condemnation costs.

4. The City will reimburse MTEM C for all other costs related to the relocation of its facilities on private right-of-way, in an amount estimated to be **\$770,733.56** for the total construction costs, including but not limited to labor, materials, engineering, inspection, and betterment, which shall include the betterment cost of an underground installation in lieu of overhead ("Construction Costs"). Costs reimbursed by the City pursuant to this Section 5 shall be actual costs expended by MTEM C, regardless of whether such costs are more or less than the estimated cost as shown in Exhibit A – Estimated Total Construction Costs.
5. The City acknowledges and agrees that no construction will commence until: a.) the City has approved MTEM C's relocation plans, all cost estimates associated therewith, and any related amendments thereto; b.) MTEM C approves all Easement Acquisitions ; and c.) MTEM C approves the ditch work and conduit installations performed by the City.
6. MTEM C must inspect its Contractor's installation of the Electric Facilities to ensure that the installation complies with this Agreement, the approved plans, MTEM C's technical specifications and all applicable specifications and safety codes.
7. This Agreement is subject to the appropriation and availability of City funds. In the event that the funds are not appropriated or are otherwise unavailable or the City cancels the Project for any reason, the City reserves the right to terminate this Agreement upon written notice to the MTEM C. Said termination shall not be deemed a breach of contract by the City. Upon such termination, the City will reimburse MTEM C for the actual cost(s) incurred through the date of termination, and for Construction Costs, \ but only if MTEM C provides reasonable documentation for all such cost(s).
8. This Agreement may be modified by the parties only by a written amendment specifically citing the paragraph within this Agreement to be amended.
9. MTEM C shall comply with all applicable federal, state and local laws and regulations in the performance of its duties under this Agreement.
10. The Estimated Total Construction Costs will be paid to MTEM C by the City prior to commencement of construction. If additional monies are further owed, MTEM C may submit periodic invoices to the City during the course of the relocation. Invoices shall be payable within thirty (30) days after receipt of same by the City. Within one (1) year of completion of the relocation of Electric Facilities, MTEM C and the City shall settle on a final billing. MTEM C will provide reasonable documentation for all such costs.
11. Failure by any party to this Agreement to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Agreement shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term, covenant, condition or provision of this Agreement shall be held to be waived, modified, or deleted except by written amendment signed by the parties hereto.
12. MTEM C agrees to timely review the plans as provided by the City. MTEM C approvals of such plans will not be unreasonably withheld.

13. This Agreement is made under and will be construed in accordance with the laws of the State of Tennessee without giving effect to any state's choice of law rules. The parties' choice of forum and venue shall be exclusively in the courts of Williamson County, Tennessee.
14. MTEMC agrees to indemnify and hold the City harmless from and against liability for all judgments, losses, damages, and expenses to the extent such judgments, losses, damages, or expenses are caused by MTEMC or MTEMC's Contractor's negligent act, error, or omission in the performance of the services of this Agreement. In the event judgments, losses, damages, or expenses are caused by the joint or concurrent negligence of MTEMC or MTEMC's Contractor and the City, they shall be borne by each party in proportion to its own negligence. The terms and conditions of this paragraph shall survive completion of this services agreement.
15. The parties are not required to arbitrate or mediate prior to filing any legal claim arising out of or relating to this agreement. No arbitration or mediation shall be binding. 16. If any terms, covenants, conditions, or provisions of this Agreement are held to be invalid or unenforceable as a matter of law, the other terms, covenants, conditions and provisions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Agreement are declared severable.
16. The City and MTEMC agree that any notice provided for in this Agreement or concerning this Agreement shall be in writing and shall be made by personal delivery, by certified mail (return receipt requested), or by nationally recognized overnight delivery service (such as FedEx or UPS), addressed to the respective party at the appropriate address as set forth below or to such other party or address as may be hereafter specified by written notice.

The Board of Mayor and Aldermen Approved this Agreement on the _____ day of _____, 2019.

IN WITNESS WHEREOF, the parties have executed this Agreement.

CITY OF FRANKLIN, TENNESSEE

**MIDDLE TENNESSEE ELECTRIC
MEMBERSHIP CORPORATION**

By: _____
Dr. Ken Moore
Mayor
Date: _____

By: _____
Print: _____
Title: _____
Date: _____

Attest:

Eric S. Stuckey
City Administrator
Date: _____

Approved as to form:

Maricruz R. Fincher, Staff Attorney

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Project Name: Franklin Rd Streetscape							
DATE:		7/2/2019					
ITEM	UNIT	QUAN	MAT'L EACH	LABOR EACH	MAT'L TOTAL	LABOR TOTAL	TOTAL COST
Ditch Insp		4,160	0	0.02	0	83	83
Conduit Insp.		4,160	0	0.02	0	83	83
Concrete Insp.							
12-Conduit		605	0	0.13	0	79	79
9-Conduit		2,365	0	0.11	0	260	260
8-Conduit		0	0	0.10	0	0	0
6-Conduit		0	0	0.09	0	0	0
4-Conduit		275	0	0.08	0	22	22
3-Conduit		325	0	0.08	0	26	26
2-Conduit		590	0	0.07	0	41	41
2 source, 2 tap Automatic Transfer Switch		0	75,000	1,836	0	0	0
4 source, 900 Amp		1	28,300	1,836	28,300	1,836	30,136
PME-9, 2 source, 2 tap		3	19,800	1,836	59,400	5,508	64,908
PME-10, 4 source		1	18,700	1,836	18,700	1,836	20,536
PME-11, 3 source, 1 tap		0	19,250	1,836	0	0	0
PME-12, 1 source, 3 tap		0	20,350	1,836	0	0	0
Cable, #1 AWG AL (Dis + 7%)		0	4.00	1.49	0	0	0
Cable, 4/0 AWG AL (Dis + 7%)		0		1.49	0	0	0
Cable, 500 MCM AL (Dis + 7%)		0	6.14	3.58	0	0	0
Cable, 500 MCM CU (Dis + 7%)		7,415	13.14	3.58	97,433	26,546	123,979
Cable, 750 MCM CU (Dis + 7%)		14,124	17.74	3.58	250,560	50,564	301,124
Cable, 1000 MCM CU (Dis + 7%)		0		3.58	0	0	0
Cable, 4/0 Cu - Neutral		0		0.67	0	0	0
Steel Riser Pole	VM2-11S, 55S	0	2224	626	0	0	0
Riser pole Framing	VC7-HD	0	263	290	0	0	0
Riser pole Framing	VC1-3S	0	399	118	0	0	0
Cross Arms	VG5H-10	0	46	158	0	0	0
Riser Terminations 3	VUM2-5	0	332	341	0	0	0
Power Fused Cutouts	VM3-1P	0	318	74	0	0	0
Disconnect Switch	VM3-14	0	149	70	0	0	0
Fault Indicator	MFC1-1	0	111	39	0	0	0
OH Lightning Arrestor	VG5AI	0	41	60	0	0	0
Sector w/heavy duty feed thru's	VUM33 & VUM4-4HD	0	1130	523	0	0	0
Primary Pullbox	UM35P	0	460		0	0	0
MH Prep Large	UM36L	0	800	700	0	0	0
MH Prep Large Octagonal	UM36G	0	1000	875	0	0	0
MH Prep Large Rectangular		10	2000	1,750	20,000	17,500	37,500
MATERIAL AND LABOR SUBTOTALS					474,393	104,384	
MATERIAL AND LABOR COST							\$578,777
Underground Operations and Maintenance at 33.2%							\$191,957
ESTIMATED TOTAL CONSTRUCTION COSTS							\$770,733.56